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In re Application of  
SELFRIDGE et al.

Application No.: 09/787,972

PCT No.: PCT/US99/19580

Int. Filing Date: 26 August 1999

Priority Date: 24 September 1998

Attorney Docket No.: T7029CIPPCT

For: PARAMETRIC LOUDSPEAKER WITH  
ELECTRO-ACCOUSTICAL DIAPHRAGM  
TRANSDUCER

DECISION ON  
PAPERS UNDER 37 CFR 1.42

The is a response to the declaration filed 25 June 2001 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

#### BACKGROUND

On 26 August 1999, applicants filed international application PCT/US99/19580, which claimed a priority date of 24 September 1998. A Demand was filed with the International Preliminary Examining Authority electing the United States. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, i.e., 24 March 2001.

On 23 March 2001, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a copy of the international application.

On 25 April 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a one-month time limit in which to respond.

On 25 June 2001, applicant filed a declaration and power of attorney executed by: Peirre Khuri Yakub, Elwood G. Norris, and James J. Croft III as joint inventors; and Margaret Johnson Selfridge as the administrator of the estate of deceased inventor, Alan Robert Selfridge.

#### DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 25 June 2001 appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 25 June 2001 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the administrator or deceased inventor. Therefore, the declaration is not in compliance with 37 CFR 1.497(a)(3).

#### CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the legal representative of the deceased inventor.

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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